

LAW OFFICES OF GREGORY A. YATES, P.C.
16830 Ventura Blvd., # 250
Encino, California 91436
TEL. (310) 858-6944; FAX. (818) 905-7038

DANIEL C. MORGAN & ASSOC.
5851 Thille Street, Suite 103
Ventura, California 93003
TEL: (805) 815-4610; FAX: (805) 800-1880

Attorneys for Plaintiffs, TOMAS BARRERA, SR., individually and as a Personal Representative of THE ESTATE OF TOMAS BARRERA, JR.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

10
11 MARIA LAZOS, et al, }
12 Plaintiff, }
13 vs. }
14 CITY OF OXNARD, et al, }
15 Defendants. }
16 TOMAS BARRERA, SR.
17 Plaintiff, }
18 vs. }
19 CITY OF OXNARD, et al, }
20 Defendants. }

Case No. CV 08-02987 RGK (SHx)

PLAINTIFFS' MOTION IN LIMINE
NO. 4 TO EXCLUDE ANY MENTION
OF A SYRINGE FOUND IN
DECEDENT'S CLOTHES

Date: August 11, 2009
Time: 9:00 a.m.
Courtroom: 850

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 Plaintiffs, MARIA LAZOS and TOMAS BARRERA, SR., individually and as
24 representatives of the ESTATE OF TOMAS BARRERA, hereby move this Court for
25 an order excluding any and all evidence, testimony, references to testimony/evidence
26 or argument, relating to a syringe found in decedent's clothes after he was shot.

27 This motion is made under Fed. R. Ev. 401, 402 and 403, and is based upon the
28 ground that the evidence is irrelevant and that its probative value is substantially

1 outweighed by the danger of undue prejudice to Plaintiff.

2 This motion is further based on the attached Memorandum of Points and
3 Authorities, the pleadings and papers on file in this action and upon such of argument
4 and evidence as may be presented prior to or at the hearing of this motion.
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6 Dated: June 23 2009

LAW OFFICES OF GREGORY A. YATES, P.C.

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8 GREGORY A. YATES
9 Co-Counsel for Plaintiffs,
10 TOMAS BARRERA, SR., individually and as a
Personal Representative of THE ESTATE OF
TOMAS BARRERA, JR.

11 Dated: June 26 2009

LAW OFFICES OF KIM SCOVIS

12 
13 JENNY SCOVIS
14 Counsel for Plaintiff,
15 MARIA LAZOS, individually and as a Personal
16 Representative of THE ESTATE OF TOMAS
BARRERA, JR.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **EVIDENCE OF THE SYRINGE FOUND IN DECEDENT'S CLOTHES**
4 **SHOULD BE EXCLUDED AS BEING NOT RELEVANT AND HIGHLY**
5 **PREJUDICIAL**

6 There is no evidence to suggest that the decedent was under the influence prior
7 to being shot. More importantly, there is no evidence that drug use was a factor in
8 the decision to shoot decedent. Admitting evidence of a syringe found in decedent's
9 clothes will not prove or disprove any fact necessary to this action and will add
10 absolutely nothing significant or valuable to the evidence. F.R.E. 401 and 402.

11 While admitting such evidence has no probative value, it would be highly
12 prejudicial, as it would depict decedent as a drug user and will arouse the jury's
13 prejudice, hostility and antipathy. *See United States v. Blackstone*, 56 F.3d 1143,
14 1145-46 (9th Cir. 1995) (trial court abused its discretion by admitting evidence of
15 narcotics recipes that were found in the defendant's vehicle and expert testimony
16 regarding drug-trafficking, because, to the extent that the evidence was relevant, it
17 was unfairly prejudicial and highly inflammatory); *Lucero v. Donovan*, 354 F.2d 16,
18 22 (9th Cir. 1965) (trial court erred by admitting expert testimony that plaintiff was a
19 narcotics user based upon a scar on her arm, because the evidence was not proper for
20 impeachment and was irrelevant and prejudicial).

21 Allowing the evidence will prolong this trial and waste the valuable time and
22 resources of the Court and all other participants, while adding absolutely nothing
23 significant or valuable to the evidence.

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III.

CONCLUSION

Based on the above, it is respectfully requested that the Court exclude any and all evidence, testimony, references to testimony/evidence or argument, relating to a syringe found in decedent's clothes.

Dated: June 23, 2009

LAW OFFICES OF GREGORY A. YATES, P.C.

GREGORY A. YATES
Co-Counsel for Plaintiffs,
TOMAS BARRERA, SR., individually and as a
Personal Representative of THE ESTATE OF
TOMAS BARRERA, JR.

Dated: June 26, 2009

LAW OFFICES OF KIM SCOVIS

~~JENNY SCOTT~~
Counsel for Plaintiff,
MARIA LAZOS, individually and as a Personal
Representative of THE ESTATE OF TOMAS
BARRERA, JR.